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THE STATE OF HUMAN RIGHTS IN TURKEY

(AN UPDATE)

Prepared by the Staff

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FOREWORD

Since September 12, 1980, many governments, international bodies and nongovernmental organizations have taken an extremely active interest in the human rights situation in Turkey. That date marked the third time in as many decades that the Turkish military had taken power, this time in the wake of governmental paralysis, political polarization, and an uncontrolled wave of violence and terrorism which even civilian-imposed martial law could not stem.[1]

Still in power in 1982, the ruling generals had made it clear that power would not be returned to civilian hands until, in their view, the causes of the previous unrest had been eliminated. Political activities remained restricted, and large numbers of Turkish citizens were in prison awaiting trial on a variety of politically related charges. Allegations of serious human rights abuses were widespread.[2]

The Commission had been urged by nongovernmental organizations, by Members of Congress, and by parliamentarians in other NATO countries, to investigate the charges of abuse.[3] A staff delegation visited Turkey from August 22-29, 1982, and its report represented one of the first open expressions of concern about the Turkish situation by official representatives of the United States.

Since the October 1982 report, the Commission, Members of Congress, various international bodies, and a variety of private organizations have followed events there with great interest. In the past six years, certain sanctions have been applied by the international community, and have been rescinded as progress was made in improving the human rights situation. In light of its ongoing interest in Turkey, and the concern which private organizations continue to express, the Commission felt it appropriate to visit Turkey again and to assess the situation once more.

The Commission believes that, since the previous staff report, Turkey has made impressive strides toward a full restoration of human rights and the democratic process. The past six years have seen a renewal of the national commitment to achieving democratic ideals for all Turkish citizens and patterns of tolerance have emerged. They are being strengthened by institutional reform, a citizenry largely committed to the democratic process, and by the activities of the press and various private organizations.

The Commission also believes that certain human rights problems, which often predate the 1980 military takeover, persist in Turkey. The report describes them and certain measures which are being undertaken in order to deal with them.

This report by the staff, describing developments since the 1982 report and assessing the current state of affairs, is a product of the Commission's continuing interest in Turkey's progress toward full democratization. The hard-won national independence of 1923 encompassed a vision of the future which incorporated a proud historical heritage in a Western framework. The profound changes that followed required great national will and commitment. It is the Commission's hope that the momentum of Turkish human rights improvements will be sustained. Turkey is a geographical and cultural bridge between Europe and the Middle East, and the Turkish experience may serve as a lesson for both worlds.

INTRODUCTION

The Republic of Turkey is one of the successor states to the Ottoman Empire, defeated in World War I and dismantled by the Western Allies. It was conceived primarily as the state to fulfill the national aspirations of the Turkish population of the defunct, multiethnic empire. The hero of its War of Independence and first President, Kemal Ataturk, instilled in the population strong feelings of national pride while rejecting the Ottoman-Islamic past. Understandably, the struggle to break with the past and enter a new era entailed tremendous cultural and social upheaval. After a period of nation-building in the 1920's and 1930's, a democratic system of competitive elections was set in motion in the late 1940's. That yielded increasing freedoms but also spawned divisiveness, as the energy and ferment unleashed in the push toward democratic ideals created a variety of pressures and tensions in Turkish society. On no less than three occasions since the first democratic elections the military has intervened to restore order. Remarkably, in all three cases the military has stepped aside, in favor of, and out of respect for, parliamentary government.

On September 12, 1980, the military had taken control of the country with the intention of ending the cycle of governmental paralysis and political polarization which had paralyzed Turkish life. In the last months before the takeover, killings were said to average more than 20 per day, schools and universities were under siege, and public and private figures were threatened by extremists of the right and the left. Governments of both major political parties had imposed martial law repeatedly but were unable to control the increasing anarchy.[4]

Having taken power, the military suspended political activity and banned the existing parties. Many political leaders were either imprisoned or placed under house arrest. Huge caches of sophisticated arms were confiscated and numerous suspected terrorists and political activists were arrested. The ruling National Security Council, which consisted of the chiefs of the various branches of the military led by the chairman of the Joint Chiefs of Staff, General Kenan Evren, announced that it intended to return power to civilian authorities only after eliminating the causes of the unrest.[5]

By 1982, the military had been in power longer than on any prior occasion. Numerous political trials were being conducted in the military court system, and a former prime minister was about to be imprisoned because of statements he had made to European journalists. Large numbers of Turkish citizens were still in prison awaiting trial, and charges of human rights abuses were widespread.[6]

The Commission had been urged by nongovernmental organizations, by Members of Congress, and by parliamentarians in other NATO countries, to investigate the allegations that serious abuses of human rights were occurring in Turkey.[7] A staff delegation visited there from August 22-29, 1982, and subsequently reported its findings. Since then, private organizations and public bodies have watched developments in Turkey closely as various sanctions were imposed by international organizations and, with improvements in the human rights climate in Turkey, were lifted.

In the course of 1982-83, there were various steps taken to return increasing degrees of political power to civilian hands. These included a referendum on a new constitution and the establishment of a civilian-led government, but with the National Security Council maintaining an important role. General Evren was affirmed as President under the civilian constitution and resigned his military duties, and a civilian became Prime Minister.

By April 1985, the Parliamentary Assembly of the Council of Europe had determined that progress had been made toward restoring democracy and respect for human rights since the readmission of Turkish delegates to the Assembly in May 1984.[8] However, the Rapporteur of the Political Affairs Committee remained very critical of practices in the courts and in prisons, and was particularly concerned about the period of custody immediately following detention, during which contact with lawyers and families was prohibited.

In December 1985, France, the Netherlands, Denmark, Sweden and Norway agreed to withdraw a complaint they had lodged before the European Human Rights Commission in 1982, which had charged Turkey with failing to comply with the European Convention on Human Rights.[9] In return, the Turkish Government promised to issue quarterly reports on the progress of human rights in the country, to permit members of the Commission on Human Rights to conduct investigations in Turkey, to consider an amnesty, and to lift martial law entirely within 18 months. The Turkish Government further pledged to accelerate legislation securing the release of all political prisoners.

In April 1986, in recognition of the fact that various governmental pledges in the sphere of human rights had been fulfilled, Turkey was offered her regular term in the floating vice-presidency of the Council of Europe. That meant Turkey would automatically accede to the presidency for six months beginning in November 1986, as in fact occurred.

In January 1987, the European Parliament voted to renew informal links with the Turkish Parliament. Its Council had frozen a protocol providing aid to Turkey in 1980, and voted as late as October 1985 not to renew official contacts with the parliament. Thus, by and large, Western states and international organizations have restored normal relations with the Republic of Turkey, signalling official satisfaction with the pace and substance of Turkish human rights advances.

In the areas of freedom of thought, expression, assembly and association, there have been significant improvements since the Commission last reported on Turkey. With each passing year the Government has acquiesced to increasingly outspoken political discus-

sions and vigorous activity by Turkish citizens. In that way, the range of individual liberties is being increasingly broadened, and voices within Turkey are undertaking ever greater responsibility for demanding progress and change.

In November 1987, free national elections were held in Turkey. A variety of parties reflecting a wide range of political opinions participated. These elections represented yet another important step in the process of restoring full civilian democracy in Turkey.

There remain areas where Turkey does fall short of some Helsinki ideals. The areas of particular concern predate the 1980 military takeover, but under martial law, and since, they have commanded much attention.

The problem in Turkey which has been most disturbing to the Commission is the issue of torture. Good intentions have been expressed, and positive steps have been taken. However, serious incidences of torture recur in Turkey. There is no doubt that the Turkish Government has taken steps to stem torture and it has announced them publicly. But the enlightened policies to which the Government has pledged itself have yet to be implemented fully and uniformly.

The other problem which commands attention involves the Kurdish ethnic minority, who make up some 15 to 20 percent of Turkey's approximately 52 million population.[10] The Republic of Turkey considers itself a secular state with equal rights for all its citizens and strives to create a strong sense of national unity. Turkish officials argue that there are no barriers preventing Kurds from aspiring to the highest positions in the land.

While Turkish law specifically guarantees the rights of non-Muslim minorities, the Government has argued that no special treatment is required or due the Kurds, who are Muslims. Demands for schools which teach Kurdish, or other cultural institutions, are perceived as undermining the unity of the state and therefore undesirable. Unlike the institutions of the non-Muslim minorities, which are protected by treaty, Kurdish attempts to maintain a distinctive cultural identity have no specified legal framework, and the Government does not wish to establish one.

The situation of the Kurds is complicated by a lack of consensus among themselves and a spectrum of political views ranging from complete assimilation to violent, revolutionary separatism. Armed Kurdish separatist bands are active in southeast Turkey and neighboring Iraq, crossing borders regularly, as the Turkish Army pursues and fights these groups.

It is unlikely that the Kurdish situation, which harks back to the earliest days of the Turkish Republic and before, will simply fade away. While it may defy simple solutions, it seems apparent to the Commission that eventually the issues of cultural and ethnic identity will have to be confronted, and the desires of those Kurds who wish to maintain their culture within the framework of the Turkish Republic considered. Recently, more open discussion in the press and greater attention to this issue suggest greater willingness to confront this question today than was the case in the past.

SUMMARY OF FINDINGS

When the Commission visited Turkey in 1982, the transition from military rule to civilian democracy was barely underway. Today, much of that transition has been completed. A Constitution adopted in 1982 established a framework for returning to a full civilian democracy. Today, there is an elected government under President Kenan Evren, the general who led the 1980 military takeover and was subsequently affirmed as President under the new Constitution and resigned from the military, and Prime Minister Turgut Ozal, who took the position in 1983 and was reaffirmed in the November 1987 elections.

Martial law was gradually lifted between 1981 and 1987 from all of Turkey's 67 provinces. The process was completed in May 1987, when the Turkish Grand National Assembly approved a proposal to lift martial law in Hakkari, Diyarbakir, Siirt, and Mardin, the last four Provinces where it remained in force. On July 19, 1987, those four Provinces, where the Government is fighting Kurdish separatists, were placed under a state of emergency, allowing their governors to exercise some powers previously available to martial law commanders. The state of emergency remains in force where officials fear disruptive, "ideological" — or politically motivated — incidents. A state of emergency also remains in force in Istanbul and in the Provinces of Elazig, Bingol, Tunceli and Van.

In the area of human rights, much progress has been made, though there remain areas which need further attention. Torture, especially during detention and interrogation, has continued to be a problem. There have certainly been significant advances in the procedures for investigating charges of torture and punishing the perpetrators, and these have been reinforced recently by the statements of high government officials. However, the Government has yet to institute certain desirable changes, such as permitting lawyers to be present during police interrogations, which could help prevent torture from occurring in the first place.

The various restrictions on eligibility to form political parties have been removed, and there is now open political debate. A ban on political activity by former leaders has been lifted, and figures prominent in pre-1980 political life are once again active. Twelve parties participated in the 1986 parliamentary by-elections, compared to only three parties permitted to participate in the 1983 national elections. Seven parties had candidates in the November 29, 1987 election, the first nationwide election under civilian control since the 1980 military intervention.

One of the most notable improvements since 1982 concerns freedom of the press, which has blossomed in the past few years. Although it remains possible for the Government to confiscate whole issues of newspapers, investigative journalism does take place and

criticism of the Government is clearly and firmly expressed. In addition, themes as controversial as the Kurdish situation are increasingly discussed in print, thereby broadening the range of journalistic discourse in Turkey and testing the limits of free expression.

The parliament operates in unconstrained conditions. Indeed, human rights issues have been among the topics addressed there by several parties, and by a multi-party commission on prison conditions.

Human rights defense groups have emerged, providing a readily accessible vehicle to those who previously had no recourse to protest human rights violations.

The Commission and nongovernmental delegations have been impressed with the willingness of Turkish officials to discuss human rights concerns. That interested foreigners can meet with Turkish officials specifically to discuss these issues is a positive development of the past few years. Several European-based organizations have sent fact-finding delegations, some of which have been permitted to visit prisons, and Helsinki Watch representatives have also recently visited Turkey. In April 1987, Turkish authorities allowed a representative of Amnesty International to investigate the human rights situation.

Although restrictive laws remain on the books, political developments and judicial decisions are now outpacing legislation in widening the scope of free speech and political participation in Turkish society. A pattern of judicial rulings has emerged — based on the Turkish Constitution and existing Turkish law — by which defendants tried for exercising the kinds of human rights guaranteed under the Helsinki Final Act and other relevant international documents are often acquitted.

Lately, further steps have been taken which should help assure the human rights of Turkish citizens. In January 1988, the Government announced its decision to become party to the United Nations Convention Against Torture and Inhuman or Degrading Treatment or Punishment. Shortly thereafter, in February, the National Assembly ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. It is still too early to assess the real impact of these encouraging measures.

In February 1988, in the wake of a hunger strike protesting prison conditions, important measures were introduced which should improve prison conditions considerably.

The Turkey which the Commission staff visited six years ago was a country under military control, about to undertake the return to civilian rule, in which human rights improvements were drastically needed.[11] Since 1982, impressive strides have been made toward a full restoration of human rights and the democratic process. The past six years have seen a renewal of the national commitment to achieving democratic ideals for all Turkish citizens. Political tolerance is growing and the trend is being strengthened by institutional reform, a citizenry largely committed to a democratic system, and by the activities of the press and various private organizations. In 1988, Turkey reflects a renascent democracy determined to succeed.

CIVIL AND POLITICAL RIGHTS

The most recent developments in Turkey point to a clear and welcome trend toward the reestablishment of civil and political rights in full. Initially, progress was slow, with three years passing between the military seizure of power and elections establishing a civilian parliament. Even then, martial law was removed only gradually.

The stated goal of the Turkish Government has been to make Turkey more democratic, while simultaneously preventing a recurrence of the staggering problems that beset the country in the late 1970's. While legal mechanisms remain which could potentially limit certain rights in Turkey, the range of civil and political rights being exercised in Turkey today far exceeds those the Commission found in 1982.

The 1982 Constitution

In November 1982, just a few months after the Commission visited Turkey, a nationwide referendum approved a new Constitution proposed by the Consultative Assembly which the ruling National Security Council had appointed.[12] It was to replace the 1961 Constitution, which had been partially suspended in 1980.

The framers of the 1982 Constitution sought to draft a document which would help prevent a repeat of the chaos and violence which characterized the 1970's. They hoped, particularly, to include features which would prevent a complete paralysis of the Government due to parliamentary deadlocks, a recurrent phenomenon before the 1980 takeover.

In the tradition of Kemal Ataturk, and of previous Turkish laws and constitutions, the framers of the 1982 Constitution sought to protect the state from the two extremes which have been considered the gravest threats to the Republic since its inception: communism and theocracy. They also intended, as the preamble to the document indicates, to safeguard the right of Turkish citizens "to demand a peaceful life."

Critics of the Constitution focus on the considerable powers placed in the executive. Recalling the political abuses which had led to military intervention more than once in the past, they were concerned about concentrating excessive power in the hands of any one individual. Other criticisms were directed at restrictions on individual liberties, the limitations placed on the mass media, and the reduced scope of permissible trade union activities.

The Constitution included 16 provisional articles, each to be in force for a specific, finite period. The most controversial of these was Provisional Article 4, which banned political activity by former political leaders for a period up to 10 years. Leaders of the two major political parties before 1980, the Justice Party and the Re-

publican People's Party, which alternated in power throughout the 1960's and 1970's, were subject to a 10-year ban on political activities such as founding or joining a party, standing for election, or even commenting about political issues. Everyone who had been a member of Parliament on January 1, 1980 was prohibited from founding a party or taking office in a party for 5 years, until 1988. In all, 481 politicians were banned from engaging in political activities for 5 years and 243 for 10 years.

The two people most visibly affected by the ban were Bulent Ecevit and Suleyman Demirel, the leftist and rightist political leaders who alternated as Prime Minister throughout the 1970's. Both ventured, more or less overtly, back into political life, Ecevit forming the Democratic Left Party while Demirel led the Correct Way Party. Both were charged frequently with violating the ban.

Provisional Article 4 had been the subject of continuing debate in the Grand National Assembly and outside official circles. In April 1986, the Grand National Assembly had amended the political restrictions to allow banned politicians to express their opinions on domestic and foreign policy, but they still could not establish relations with political parties. In May 1987, after much deliberation, the Assembly voted to hold a nationwide referendum on Provisional Article 4.

Also in May 1987, the chief prosecutor of Turkey called for the multiple cases against Demirel and Ecevit to be consolidated into a single case against each. Ecevit had already gone to prison twice between 1980 and 1983 for violating article 4 by making statements to foreign journalists. In December 1986, he was convicted and sentenced to 11 months and 20 days imprisonment, though in fact he was charged at least 100 times for violating the political ban by making political speeches. Demirel was charged in at least 55 cases.

The referendum on article 4 was held on September 6, after extensive public debate. Turkish voters decided by a slim margin, just under 51 percent of the votes cast, to repeal the political ban. Immediately afterward, the National Assembly agreed to Prime Minister Ozal's proposal for early general elections in order that democracy ". . . be restored in such a manner that no one will have any objections to it." [13] In the November 1987 elections, both Demirel and Ecevit participated as the leaders of their parties. In addition, the various charges against them for violating aspects of the political ban were dropped.

Some long-standing restrictions on political life, however, are expected to remain a permanent part of the system. In April 1983, a Political Parties law came into force. It retains restrictions dating back to the 1920's which prohibit forming or joining any party which seeks to impose the rule of one social class over another, i.e., communism, to establish a dictatorship, or which advocates a theocracy. According to the 1983 Law, parties can be shut down permanently for allowing activities besides those set out in party programs and bylaws. Partly as a result of the experience with labor confederations such as MISK and DISK,[14] the Government continues to prohibit political parties from being affiliated with trade unions.

The Criminal Code

Critics of Turkey's human rights performance have focused sharply on the Criminal Code, particularly articles 140, 141, 142, 143 and 163. Article 140 prescribes sentences of five years for communicating information to foreigners which may be detrimental to the Turkish national interest. Articles 141-143 call for prison sentences of up to 15 years for attempts, or propaganda seeking, to establish, the hegemony of one social class over others or the autonomy of any ethnic group other than the Turkish nation. Article 163 prohibits propaganda or acts against the secular principles of the state. The critics charge that the authorities have used these laws to silence journalists and publishers, and to restrict political discourse.

Another troubling issue concerned the activities of the police. In June 1985, the Grand National Assembly passed a law expanding police powers. Under the new law, the police could detain anyone determined to be acting against accepted social standards, including those who looked "suspicious." The powers of search and confiscation were widened, as was the authority of the police to interfere with mail and telephones, including wire tapping and the seizure of mail. However, pretrial detention was limited to 24 hours except in cases involving anti-state activities, drug smuggling, or conspiracies involving three or more people, in which case the permitted period would be 15 days.

In August 1987, the Constitutional Court annulled portions of the law. It disallowed the detention of "suspicious" characters acting in contravention of accepted social standards, and determined that the police could not remove prisoners from prisons in order to interrogate them.

According to the Government, the expansion of police authority to encompass powers incidental to martial law was intended to stem terrorism, political violence and drug smuggling. Critics claimed that it was promulgated not in response to an increase in these phenomena but rather, in Prime Minister Ozal's words, ". . . to avoid the recurrence of the past." Government authorities, however, point to an increase in drug smuggling and terrorist attacks in the southeast, even if political violence has not returned in widespread fashion to Turkey.

The 1986 Execution of Sentences Act has also changed some aspects of the situation in Turkey. The new law restricts the use of the death penalty and has reduced prison terms by more than half. It also provides for the commutation of most death sentences to 30 years in prison, to be served in full, the commutation of life imprisonment to 20 years, and a reduction of all other sentences by 18 days per month. Prisoners who had attempted to escape became eligible for only a 25 percent reduction of their sentences. All releases are contingent upon a 9-month probationary period of good behavior.

While the courts may continue to sentence defendants to death, no death sentence may be executed without the explicit sanction of the Grand National Assembly. Since the Assembly has refused to vote on death sentences for over two years, this is an effective suspension, and perhaps a permanent end to, the death penalty.

In June 1986, the Grand National Assembly opened deliberations on a revised Criminal Code. The proposed revision would reduce sentences for common and violent crimes, but would increase sentences for political crimes by five years. Three to ten years would be added to sentences for "actions against the national interest." Death sentences not carried out within a specified period of time would automatically be commuted to life imprisonment.

Political Prisoners

At the time of the Commission's 1982 visit to Turkey, the Turkish Government just announced that some 18,184 persons were in prison for politically related offenses. This was a reduction from the November 1981 admission that nearly 30,000 "political extremists" were then in prison, though Amnesty International felt the number was not less than 60,000.[15]

Many of those imprisoned since the September 1980 military takeover for activities during the 1970's where still there as late as 1985. Though all of the nearly 3,700 defendants charged in the DISK trade union trial had been released from prison by the autumn of 1984, in 1985 Helsinki Watch still felt that there were approximately 18,000 political prisoners and detainees in Turkey.[16]

In the past few years, the number of political prisoners has declined. In addition to sentences being served fully with the passing of time, legislative changes have led to the many releases. Articles 87 and 14 of the Turkish Constitution exclude political prisoners from amnesty, but under the 1986 Execution of Sentences Act many political prisoners became eligible for early release on the same terms as other prisoners. Necat Eldem, Minister of Justice until October 1986, announced that in the four months following passage of the new law, 20,713 prisoners were released.[17] In 1987, some 60,000 prisoners were released.

Estimates by human rights groups of the number of political prisoners still incarcerated in Turkey range anywhere from 6,000 to 15,000. More recent estimates cited by Helsinki Watch and others suggest that the number of political prisoners has declined to under 10,000. Amnesty International has suggested about 10,000, and some private Turkish observers' estimates are as low as 6,000.[18] With the recent early releases, the number is possibly 7,000-10,000.

Torture

When the Commission staff visited Turkey in 1982, considerable attention was paid to the matter of torture. They concluded that torture was not a new phenomenon in Turkey, and had gone on under previous governments, including those of Ecevit and Demirel. Indeed, it was the martial law regime of General Evren which first acknowledged that torture occurred in Turkey and began to investigate such charges.[19]

Hunger strikes among Turkish political prisoners were reported widely in the European press in 1983 and 1984, thereby placing the issues of torture and prison conditions squarely before world public opinion. The strikes took place in Istanbul, Ankara and Diyarbakir, and involved many thousands of prisoners who either limited

themselves to water, salt and sugar, or determined to fast until death. Western sources reported that 13 prisoners died fasting.[20]

While the investigations which followed in the wake of these events resulted in some torturers being convicted, complaints continued. In January and February 1986, a 23-day hunger-strike took place at Adana Prison to protest mistreatment and poor prison conditions. The Rapporteur of the Council of Europe Legal Affairs Committee felt in April 1986, that "torture is still widespread and is a serious structural problem."

In February 1986, for example, *Cumhuriyet* had reported that a policeman was still on duty even though he had been sentenced to two jail terms of eight and ten months respectively for torture and was undergoing another trial on torture charges. Critics of the regime reported cases in which convicted torturers had allegedly escaped "with permission." They said that because policemen charged with torture cannot be detained during trial, a number had "disappeared" before sentencing. Others dismissed from their posts in one area of the country had reportedly re-emerged in other no less desirable posts.

An example of the kind of case which commanded public attention was that of poet Servet Ziya Corakli, who was detained in February 1986 for distributing leaflets just prior to a trade union demonstration. He was held in prison and charged with membership in the illegal Turkish Communist Party. Lawyers visiting him reported that he was exhausted, apparently as a result of repeated torture, causing him to lose the use of his left foot and hand and causing injuries to his anus. Amnesty International learned that since his detention, Corakli had been admitted to a military hospital in Izmir five times, and that each time he was returned promptly to prison.

By November 1986, the U.S. Embassy reported that more than 500 policemen and other law enforcement officials had been convicted of torture in the previous few years. In December 1986, the new Minister of Justice, Mahmut Oltan Sungurlu, announced that of 1,459 accused torturers in 1986, 100 had been sentenced and other cases were continuing.

Bulent Akarcali, Chairman of the Parliamentary Commission on Prison Conditions, reported that some 1,500 policemen had been fired for participating in the torture of detainees. The fact that the authorities no longer denied that torture had taken place in prisons and police stations was, in and of itself, a change from the days before martial law, when governments of various parties consistently denied what was known to the citizenry.

Most high government officials sought to distance the regime from allegations of torture. Prime Minister Ozal's reaction to a question about such allegations during a December 1986 interview, was indicative of their attitude:

> The fact is that emphasis is placed on events dating back to the military regime, which are portrayed as typical cases. There have been no such cases recently. In my opinion there is no human rights problem in Turkey. Allow me to add that if a representative of the law and order forces makes a mistake, it is his fault, not the system's.[21]

More recently, however, in response to continuing charges by the political opposition regarding the persistence of this problem, the

Prime Minister promised vigorous prosecution of the perpetrators if credible victims were brought to his attention.

Most allegations of torture now center primarily on the period of incommunicado detention. Human rights advocates have long urged that having lawyers present at interrogations would stem torture. A parliamentary draft law to require the presence of lawyers during interrogation was defeated in 1986.

Although examples no longer abound as they did during martial law, neither do they seem to be simply isolated incidents. Human rights advocacy groups such as Amnesty International, have charged that it is still employed with regularity. Because claims of torture often involve Kurds, along with others detained and imprisoned for alleged membership in Communist organizations, some officials have suggested that the allegations are politically motivated. Human rights advocates contend that these groups run the greatest risk of being tortured. However, the trials and convictions of accused torturers do not seem to reflect any particular pattern of selecting or avoiding political cases.

The procedures for lodging legal complaints concerning torture are inadequate. Usually the public prosecutor awaits a formal petition from the alleged victim before investigating such charges. Victims fear retribution and find it difficult to prove torture months or years after the fact. According to Amnesty International, some prisoners who, while still in detention, testified in court that they had been tortured, were subsequently beaten or otherwise punished upon their return to prison.

Some of the defendants in the 5-year-long DISK trade union confederation trial, continue to claim that allegations of torture during their initial incommunicado detention, which they reported during the trial, were never investigated by the authorities, and that the related information disappeared from their files. For its part, the Government claims the matters were considered seriously and investigated accordingly.

Complaints have also persisted that the sentences meted out to those found guilty of torture have been comparatively light. Press reports about these matters indicated that convictions on charges of torture have tended to result in sentences not exceeding seven years. Where torture has resulted in death, the accused have usually been tried for involuntary manslaughter, which generally brings a sentence of up to eight years. The European press has provided extensive coverage of the trials and sentences of convicted torturers, and coverage of this issue in the Turkish press is also considerable.

While the lifting of martial law did not bring an end to torture, it has brought a distinct improvement: the opportunity to redress grievances legally. Presumably as a result of domestic and foreign criticism, there has been movement toward legal changes intended to stem torture. In particular, the new draft Penal Code calls for a significant lengthening of sentences to be meted out to those convicted for torture. Those who have tortured people to death could be incarcerated for up to 16 years, compared to the seven and one-half years currently prescribed. Those convicted of abusing prisoners could receive a three-year sentence instead of three months.

In early 1988, further steps were taken which should help assure greater protection from this kind of abuse. In January, the Government announced its decision to become party to the United Nations Convention Against Torture and Inhuman or Degrading Treatment or Punishment. Shortly thereafter, in February, the National Assembly became the first parliament to ratify the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. As a result, it now appears that Turkish citizens will have the right to file individual human rights complaints before international bodies.

Turkish officials have made strong statements, there have been significant changes in law, and the Government has now agreed to certain international undertakings intended to prevent torture. It remains to be seen whether the message will be received and acted upon at all lower levels. It is not yet apparent that provincial authorities, particularly in the southeast, where most allegations of torture are centered, are convinced that torture will not be tolerated.

Prison Conditions

Recent measures by the Turkish Government have begun to address some of the central issues regarding prison conditions and the rights of prisoners generally. Next to torture, mistreatment of prisoners — including health problems due to poor sanitary conditions, punishment by refusing family visits, and brutal and rough-handed treatment — had been among the major concerns of Turkish and foreign observers alike.

Throughout the early 1980's, complaints about prison conditions were widespread. They concerned such matters as difficult conditions for visits, including a 10-minute limit per week on meetings with attorneys and a ban on speaking Kurdish, even with family members who did not speak Turkish. A Parliamentary Commission formed in late 1984 to investigate Turkish prisons focused primarily on these matters.

The Parliamentary Commission report made several practical recommendations, such as: amending prison regulations to enable convicts and detainees to write directly to state leaders; imposing sanctions on prison employees who attempt to open such letters; increased penalties for those convicted of torture or mistreatment; banning such employees permanently from public service; allowing detainees and prisoners to confer with their lawyers in appropriate settings and for sufficient time; improving the conditions for visits generally; restricting bans on visits ("The access to visits is a right and not a favour made to the inmate."); allowing opportunities for inmates to telephone their families and lawyers; and improving conditions for prisoners in transit between institutions.

Some human rights observers were disappointed with both the scope and the outcome of the investigation. Helsinki Watch reported that, according to one Commission member, they were not allowed to see as much as they should have at the prisons.[22] Furthermore, prisoners were said to be understandably reticent in the presence of military officers, who accompanied Commission delegations in military prisons.

In March 1986, the Grand National Assembly responded to the Parliamentary Commission's report and pressure from abroad by passing a resolution to relieve overcrowding and inhumane conditions in jails, and to adjust arbitrarily long prison terms.

Despite reported improvements in prison conditions, in February 1988, there was a 10-day hunger strike in the Diyarbakir Military Prison to protest conditions there, which inspired similar strikes elsewhere in the country. Shortly thereafter, the Prime Minister announced a series of reforms intended to meet most of the inmate demands.

According to newspaper reports, the new measures include: the right to "converse freely" with family members, meaning that Kurdish may be spoken; greater flexibility for visits and longer meetings; eliminating the requirement that prison uniforms be worn; allowing musical instruments, typewriters, hobby materials, and other private items; receiving medically prescribed foods; access to telephones; the right to private meetings with attorneys; the possibility of sending laundry home; better stocked canteens; a substantial increase in the amount of money which may be received from families; and the right to elect representatives to deal with prison authorities on behalf of the prisoners.[23]

These major improvements in the prison regime are important. They represent a significant step along the way to eliminating poor conditions and assuring that the basic human rights of the imprisoned are protected.

FREEDOM OF ASSOCIATION

Restrictions on freedom of association comprise one of the most complex aspects of the current human rights situation in Turkey. Compared to the situation as the Commission staff found it in 1982, the situation is greatly changed. There are numerous organizations and unions addressing a variety of public issues. At the same time, the laws which govern associations and other aspects of public life have the potential to limit freedom of expression. Nonetheless, the present trend is generally encouraging, and certainly is an improvement over the recent past.

While the Constitution guarantees that "(e)very individual has the right to form associations without prior authorization," it requires all persons wishing to form a group to submit a request to the competent government authority. The October 1983 Law on Associations confirmed the constitutional prohibition against associations engaging in political activities or having ties to political parties.

Some associations which submitted charters for approval under the 1983 law initially encountered trouble with officials who considered their aims political in character. Here, again, officials were recalling the recent past.

One of the most controversial trials concerning freedom of association in post-1980 Turkey was that of the Turkish Peace Association (TPA), founded in 1977 with the stated aim of promoting nuclear disarmament and peaceful settlement of disputes, and to monitor the security provisions of the Helsinki Final Act. The TPA also called for a Turkish withdrawal from Cyprus.

Like other associations, the TPA was banned after the imposition of martial law. In February 1982, the 28 members of its executive committee were arrested and charged with violating articles 141 and 142 of the Turkish Criminal Code, which ban organizations and activities intended to establish the superiority of one social class over the others. The TPA members were accused of working with terrorist organizations seeking to overthrow the regime.

In November 1983, 23 of the TPA defendants were convicted, with 18 of them receiving sentences ranging from five to eight years' imprisonment. After a lengthy appeal process, the case was returned to the court for retrial. Six of the defendants were released in 1984; by March 1986 all of the defendants had been released from prison. The trial, however, continued. A second trial, focusing on the same charges and involving 48 TPA members, began in 1984.

Many prominent citizens, including journalists, former lawyers, parliamentarians, and diplomats, belonged to the TPA, and their strong foreign connections and support from abroad meant there was considerable pressure on the Turkish authorities to free the

defendants and end the trial. However, because some TPA members are also members of the Soviet-backed World Peace Council, they continued to be suspect in the eyes of Turkish officials.

On April 28, 1987, the long-running TPA trial came to an end. Twelve of the defendants, including TPA President Mahmut Dikerdem and Reha Isvan, wife of former Istanbul mayor and DISK defendant Ahmet Isvan, were convicted. Thirty-one were acquitted, and 28 had the charges against them dropped for various reasons. The court's decision also included a ban on the TPA.

If the verdict is upheld, none of the defendants will have to serve further time in prison, having already spent the equivalent of their sentences in detention. The prosecution, however, has appealed the verdict. If the court accepts the appeal, the trial could continue for another two to three years.

Trade Unions

From the early 1960's to 1980, Turkish trade unions became increasingly politicized and radical, and strikes proliferated. Immediately following the 1980 military takeover, the regime suspended union activities. The authorities regarded organizations such as DISK (The Revolutionary Confederation of Turkish Workers), the ultra-nationalist labor confederation MISK, and some unions affiliated with TURK-IS (The Confederation of Unions of Turkish Workers), as primarily responsible for the political violence which emanated from both extremes of the ideological spectrum. It was alleged that they had links to illegal, clandestine organizations seeking to overthrow the Government by force. The authorities further charged that the unions had been infiltrated by terrorists responsible for the pre-1980 chaos in Turkey.

Several trials concerning labor union activities took place. The most prominent of these was the DISK trial, which commenced in December 1981 and concluded in December 1986. DISK represented the radical left in the Turkish labor movement and had broken from TURK-IS, a mainstream, umbrella organization formed in 1952. The DISK leadership then cooperated closely with TIP, the Turkish Workers' Party. After TIP's suspension during the 1970-71 military takeover, there was cooperation between DISK and the leadership of the Republican People's Party as well.

Some of the DISK leadership propagated a program of total nationalization of major industries, banks, and natural resources, the redistribution of land, and centralized economic planning. In foreign policy, there were calls for removing NATO bases and cutting defense spending. DISK sponsored a number of mass demonstrations throughout the 1970's, some of which ended in violence.

Scores of DISK and other union members were detained without charge after the takeover and were held incommunicado for four months. Finally, more than 25 different trials of DISK detainees were consolidated into one collective trial. The defendants were charged with belonging to a terrorist organization, inciting disruption of the economy, and working for a revolution. At its peak, the trial involved almost 3,700 defendants. By fall of 1986, there were fewer than 1,500. The last of those still in custody were released from prison in September 1984, but continued to stand trial.

Charged with violating article 146 of the Criminal Code, which prohibits attempts to modify or overthrow the Turkish Constitution by force or to interfere with the functioning of the Parliament, the prosecution had originally demanded the death penalty for 78 of the defendants. In January 1986, this demand was dropped.

In December 1986, 1,169 of the defendants were acquitted; 274 were to be imprisoned for five to ten years and one defendant for a year. The court ruled that DISK and 28 affiliated unions be prohibited from resuming their activities. The DISK defendants have appealed the verdict and the case is expected to proceed to the Military Court of Appeals.

The 1982 Constitution formalized the official attitude toward unions by barring them from political activity. Article 52 states, in part, "Labor unions shall not pursue a political cause, engage in political activity, receive support from political parties or give support to them, and shall not act jointly for these purposes with associations, public professional organizations and foundations." Likewise, the Constitution safeguards the right of workers to strike "if a dispute arises during the collective bargaining process," but bans "politically motivated strikes and lockouts, Solidarity strikes and lockouts, occupation of work premises, labor go-slows, decreasing production, and other forms of obstruction."

In the course of 1986, the mainstream TURK-IS confederation held well-attended demonstrations for better labor conditions, although some participants were arrested. Most recently, TURK-IS representatives attempted to march to the Parliament to hand over a letter of protest in March 1987 and were charged with marching illegally. The charges were dropped in April. Trade unionists claim they have been harassed and that their activities have been closely monitored.

In present day Turkey there is considerable labor union activity, and more work-days were lost to strikes in 1987 than in any previous year. However, the articles of the Turkish Constitution limiting trade union activities could allow their activities to be curtailed arbitrarily at some time in the future. Presently, there are efforts underway to encourage the legal and constitutional changes necessary to assure that legitimate labor organizing, not merely be tolerated within certain limits, but fully protected by law.

Other Associations

Like other voluntary organizations, human rights groups seeking official recognition have also encountered delays, with documents having to be submitted and resubmitted. The Government has not prevented these groups from forming, but some of their members claim that the authorities have harassed them and created obstacles intended to slow them down. They have found it difficult to demonstrate in advance, that they will not contravene the constitutional ban on associations and unions pursuing political aims.

Among the first groups to apply for association status under the October 1983 law, was the Ankara-based Ekin-Bilar society for cultural activities. Initially, the authorities had stalled approval of the proposed bylaws for several months. In June 1986, four members of the Board of Directors, including satirist Aziz Nesin, were tried for organizing cultural evenings without prior permission. The case

was referred to another court in July. Meanwhile, the authorities temporarily closed the theaters where the cultural evenings had taken place, charging that they had violated regulations pertaining to the state of emergency, and the Ministry of Culture suspended the Government's financial contributions to one of the theaters.

In the summer of 1986, 98 writers, lawyers, ex-professors and other intellectuals, led by lawyer Nevzat Helvaci, founded the Human Rights Association of Turkey in Ankara and Istanbul, achieving official recognition in April 1987. They declared that their goal was to:

> undertake activities aimed at instituting in all their various aspects, the Rights of Man as defined by their contemporary content accepted throughout the civilized world, which have their roots in the history of man's struggle for freedom and the integrity of being a human being, and have their place in the international documents of which our country is a signatory.[24]

Specifically, the association called on the Turkish Government to protect human rights as defined in international conventions. It also declared its intention to work toward modifying legislation to conform with international agreements, improve conditions in prisons and guarantee respect for the human dignity of prisoners, and ensure Turkey's full adoption of the right to individual recourse to the European Commission on Human Rights.[25]

Repeated delays characterized the Human Rights Association's attempts to gain official recognition. After the group first applied to the Ministry of Interior to have its charter approved, it waited three months before receiving a rejection on legal grounds. The Ministry's letter of denial said that the proposed mandate of the organization was too broad, and suggested that the aims of the association would necessitate changing the Constitution and laws of Turkey. It commented further that the purposes outlined in the proposal were rightly the preserve of the state, and that the association should not involve itself in what the state considers politicking. The group changed some legal aspects of its second application, but maintained its broad aims. The second application was also rejected. Finally, a third application was approved in April 1987.

The Human Rights Association has already sponsored several panels on human rights topics. Although police permission to hold such programs must be obtained some weeks in advance, so far it has been forthcoming. The association has also compiled a list of 160 Turkish citizens who died in detention since the establishment of martial law.[26] They collect information and monitor individual cases, publish a bulletin, hold press conferences, and are lobbying for an end to the death penalty in Turkey. They also gathered more than 150,000 signatures on petitions calling for a general amnesty.

Another human rights group, which received approval to form an association in September 1986, is the Association of Prisoners' Families. Based in Istanbul, it includes more than 100 families of prisoners belonging to Dev-Sol, a revolutionary, left-wing youth movement involved in political violence both before and after 1980.

The founders of the association had long planned to form a group to advocate prisoners' rights. Since 1981, individual families had approached the authorities with petitions on behalf of their rela-

tives in prison, and had charged that the Dev-Sol prisoners were tortured and otherwise mistreated. The 1984 hunger strikes spurred them to further action.

First, the group approached the Grand National Assembly; disappointed with the lack of response there, they appealed directly to the public, organizing a demonstration by the mothers of 10 prisoners, which took place at Istanbul's busy Taksim Square. They called for improving prison conditions in order to bring the hunger strikes to an end. The mothers were detained for three weeks, and indicted for violating the Law on Assembly. They were subsequently tried and acquitted of the charge.

When the new Law on Associations was promulgated, the families of the Dev-Sol prisoners applied for recognition. Like the Human Rights Association, they were asked to make changes in their application. After participating in a meeting of a Council of Europe parliamentary "mini-assembly" in Istanbul in June 1986, they received a letter from the governor of Istanbul refusing to recognize the association. His letter indicated a suspicion that, rather than being motivated by a concern for prisoners' rights, the association had ulterior, criminal motives. After a series of protests, permission to form a legal association was finally granted in September 1986. However, some members reported threats of detention and interrogation, intended to discourage their activities.

The association hopes to expand its membership to the families of all prisoners, political and non-political alike. They want to increase the legal opportunities to publicize prison conditions and address individual cases of mistreatment. Other areas of interest include the rights to hang posters, hold rallies and marches, and distribute handbills.

Another area of association activity which has attracted attention, concerns professional organizations. The Turkish Writers' Union, dissolved under martial law, was reinstated in 1986. In May 1986, union members were cleared of charges of subversion brought against them in January 1983.

The Turkish Medical Association encountered difficulties in early 1986 when it announced its intention to revoke the certification of any doctors involved in torture, and issued a call for repealing the death penalty. The association faces charges of interfering in politics and a threatened shut-down. Twenty-two members of the Medical Association were charged with violating article 141 of the Criminal Code, which prohibits the establishment of hegemony of one social class over others.

FREEDOM OF THE PRESS

Vigorous journalism and an ever increasing range of subjects have characterized one of the most dramatic and welcome improvements in recent years. The press played an important role in testing the resolve of the Government to carry out its promises of democratization and a return to civilian rule. In addition, debate in the press has widened the range of political discourse in Turkey generally, and opened discussion of issues long considered out of bounds.

Shortly after September 12, 1980, the authorities promulgated decrees which prohibited the Turkish press from criticizing the Government or the ruling National Security Council. Providing the foreign media any material which could harm the national interest was also proscribed. Numerous journalists were punished and publications censured for violating these laws during the first several years after the military took power.

Newspapers could be closed at any time for violating martial law regulations, and a number of major dailies were shut down temporarily in 1983, including the conservative *Tercuman* and the centrist *Milliyet*. The following year, *Cumhuriyet* was closed temporarily for reprinting an editorial which was over 20 years old. Many of the numerous newspaper closings were accompanied by the trials and the detention of journalists. During martial law, newspaper offices received instructions by telephone each day regarding permissible and prohibited topics, and some journalists have recalled since that their office walls were adorned by long lists of taboo topics.

In November 1983, a press law was passed. Although it lacked formal censorship guidelines for journalists, the law retained broad powers to punish errant writers. Local public prosecutors may confiscate all issues of a publication before it goes on sale, and journalists are liable if they publish articles which incite a crime or lead to the exposure of state secrets. Publishing houses may be shut down for issuing subversive literature, and their presses and machinery may be confiscated if publishing an article is determined to constitute a crime against the "integral unity of the state" or national security. The law also allows the Council of Ministers to prohibit the sale of foreign publications which pose "a danger to the unity of the country, the basic tenets of the Constitution, national security or public morality."

These measures, and charges that artistic freedom was severely limited in Turkey, drew international attention. In 1985, playwrights Arthur Miller and Harold Pinter travelled to Turkey on behalf of the international writers' organization PEN to investigate censorship and other concerns. During their stay, the martial law

authorities censored reporting on a press conference they held in Istanbul.

By all accounts, there are no formal guidelines for censorship in Turkey. Certain subjects have traditionally been prohibited since the establishment of the Republic, and remain so under general legal provisions, the current state of emergency in Istanbul and 8 other provinces, or according to certain articles of the Constitution. Among the subjects which remain off-limits are criticism of Ataturk or of the army, advocacy of class or racial domination, and calls for separatism.

The most obviously taboo topic for the press has been the minority issue in Turkey. Since advocating separatism is prohibited generally, many journalists have been understandably hesitant to write about the situation of the Kurds for fear that simply dealing with the issue may cause them difficulty. In March 1985, Alexander Berthelson, a Norwegian journalist of Kurdish descent, was sentenced to five years in prison for a book he had written about the Kurds. However, after several protests by the Norwegian Government he was released from prison in July of that year.

Despite the sensitivity of the issue, and taking encouragement from statements by members of the Grand National Assembly, the press has addressed official policy toward the Kurds, at least indirectly. Journalists have questioned some practices of the security forces against armed insurgents, which are said to result in political repression in the southeast.

In addition to clearly prohibited topics, it is unclear what may or may not be a prosecutable offense under the law. Since there is no pre-censorship of journalists and other writers, what has occurred is essentially self-censorship. Most journalists do not wish to join their numerous colleagues among writers and publishers who have been tried for infringement of the laws governing the press.

An example of the uncertainty under which journalists and writers have functioned was the case of writer Erbil Tusalp. Tusalp has written two books on torture, and managed to get both published in Turkey. In March 1986, he was indicted, ostensibly for discussing a trial in progress and for slandering certain judges in his 1985 book, *Human Rights File - One Thousand Men*, not for his allegation that torture is a state policy. Tusalp's case demonstrates the legal means the authorities can employ if they wish to intimidate those who exceed the bounds of acceptable journalism.

Another well known and oft-cited example of the aggressiveness of the press is the case of a widely publicized series of articles by policeman and confessed torturer Sedat Caner, which appeared in the weekly *Nokta* in February 1986. It was hailed as demonstrating the degree to which writers could discuss torture in Turkish newspapers; it also prompted the court-ordered seizure of two issues of the Ankara weekly and charges being brought against it, which were subsequently dropped.

There is no doubt that journalists and writers have persisted in aggressively testing the limits of the law. In addition to greater discussion of supposedly forbidden topics, there is vigorous criticism of the Government. Presently, no major newspaper is pro-Government. Some encouragement can also be taken from the fact that a

high proportion of cases brought against journalists, end in acquittals.

Perhaps more than any other development, the burgeoning freedom of the Turkish press has raised high expectations in Turkey and abroad. Stories about torture in police stations, and editorials by politicians who were banned at the time, have been central in the leading role the press has played in stretching the bounds of the accepted. Still, laws remain in force which could potentially reduce press freedom, so writers who test the limits of what is permissible may be vulnerable, should conditions change at some point in the future.

FREEDOM OF EXPRESSION

In the past few years, many Turks have organized themselves into a variety of organizations intended to promote and protect freedom of expression. This is an improvement over the situation which the Commission encountered in 1982, when there was concern over the impact of suspending normal political activity.[27]

In the period since the last staff report, citizen demands and pressure have laid the foundation for renewed political and cultural discourse in a variety of areas. Predictably, intellectuals at the forefront of human rights advocacy have been among those who have borne the brunt of official restrictions on freedom of expression.

In 1984, 1,256 intellectual figures signed a petition calling for greater freedom in Turkey. Fifty-six were indicted for violating martial law curbs on free expression, but all were acquitted in February 1986.

A number of intellectual figures interviewed by the Commission expressed grave concern over the future of academic freedom in Turkey in the aftermath of martial law, particularly under the watchful eye of the Council on Higher Education (YOK). The Council was established in November 1981 under the chairmanship of Professor Ihsan Dogramaci after passage of the Higher Education Act.

The Council was established to exercise central control of university life in Turkey. In accordance with that purpose, it has discretion over the hiring and firing of faculty. It also has the power to maintain discipline and set the curriculum for Turkish universities, which are public institutions. In March 1984, it instituted the use of security forms for faculty members and their families. The information supplied on those forms can be used to block faculty appointments or the granting of tenure to those of unacceptable political leanings. These forms are reportedly in use for civil servants throughout the Government.

Since its inception in 1981, YOK has removed more than 300 university faculty members. About 900 have resigned or retired early from academic life.[28] Some in Turkey claim that as many as 2,000 have been expelled and 3,000 have resigned since 1980. Like other ousted public servants in Turkey, academics who were removed during martial law for ideological reasons were told they could not re-enter public service. However, recent court cases have resulted in reinstatements, perhaps suggesting that a change in this policy is possible.

The close, watchful eye of YOK over educational activities has prompted various student protests. University students are prohibited by law from forming associations without special permission from the president of their university, and both students and pro-

fessors are barred from belonging to political parties or becoming involved in political activities. In May 1986, 16 students were arrested for attempting to form such associations. Currently 12 of these students are involved in trials.

In January 1986, a parliamentary committee had refused to pass on for consideration legislation granting legal recourse to those dismissed from their jobs by Martial Law Decree 1402, which authorized the firing of public servants deemed unreliable. This ban included academics who were forced by the Higher Education Council to give up their posts. However, on May 12, 1987, an appeals court agreed with Yalcin Kucuk that Decree 1402 could not remain valid after martial law was rescinded. Kucuk, a Socialist, was reinstated as a professor. This decision is expected to influence other pending court challenges to the decree, and in some instances the Government has now decided to drop pending cases.

In May 1986, leaders representing eight student groups were indicted for publishing a letter critical of higher education policy. In June 1986, a petition with more than 2,000 students signatures called for the resignation of Council President Dogramaci. In November 1986, a number of students were arrested as they marched from Izmir to Ankara to deliver a petition protesting YOK policies to Necmettin Karaduman, President of the Grand National Assembly. Twenty-seven students held a hunger strike in January 1987, after their student association was forcibly disbanded and some of their colleagues had been detained.

The student protests have not gone unanswered. Draft legislation calling for the abolition of all existing student associations and their replacement by a single student union with compulsory membership, a proposal which had prompted student demonstrations in Istanbul and Ankara in April 1987, was withdrawn from consideration by Prime Minister Ozal.

The situation in Turkish universities remains essentially unresolved. It remains unclear just what the eventual structure of student unions and other campus organizations might be. Similar questions exist with regard to the range of activities which will be permitted faculty members.

MINORITY RIGHTS

No subject, including torture, provokes Turkish sensitivities more than the question of minority rights. In conversations with the Commission and others, Turkish officials have often said that those who seek to publicize minority problems in Turkey are attempting to de-stabilize the country. In saying this, they are referring particularly to the Kurds, who comprise some 15-20 percent of Turkey's population of 52 million.

The Republic of Turkey considers itself a secular state with equal rights for all its citizens and has tried to create a pluralistic society with a strong sense of national unity. The treaties which legally dismantled the Ottoman Empire after World War I, and led to the establishment of the Republic of Turkey in 1923, specifically enshrined the rights of non-Muslim minorities. At the insistence of the Western Powers, the minorities were assured the right of maintaining their cultural and religious institutions. Since then, the Government has argued that, unlike the Jews, Greeks, and Armenians, no special treatment is due the Kurds, who are Muslims.

Since the inception of the Turkish Republic its government has sought to assimilate its Muslim population into a single nation. Consequently, the official use of the Kurdish language, and Kurdish-language publications, have been prohibited. Demands for Kurdish lessons in schools, or for cultural institutions, are perceived as undermining the unity of the state. Unlike the case for non-Muslims, Kurdish attempts to maintain a distinctive cultural identity have no specified legal framework, and the Government does not wish to establish one. After a series of revolts from the mid-1920's through the mid-1930's, even use of the term "Kurd" or "Kurdistan" was suppressed in publications printed in Turkey.

Article 42 of the 1982 Constitution states that only the Turkish language shall be taught "as mother tongue to Turkish citizens at any institutions of training and education unless otherwise provided by international treaties." Besides Turkish, the Law of Broadcasting in Languages other than Turkish permits the media to use only the official languages of countries recognized by Turkey or languages provided for by international agreements. Therefore, Kurdish cannot be used for broadcasting or publishing. Hence, there are severe restrictions on the use of the Kurdish language and on Kurdish cultural practices.

The situation of the Kurds, who live in neighboring Iraq, Iran, Syria, and the Soviet Union, as well as Turkey, is complicated by a lack of consensus among themselves. Some Kurds in Turkey assimilate fully into the mainstream. Others maintain their tribal existence and may be either pro- or anti-Government, and their views on this matter often influence their relations with each other. Still others are violent, separatist revolutionaries, calling for a Kurdish

state made up of territories to be taken from the various countries where Kurds live. Armed Kurdish bands move throughout southeast Turkey and regularly cross the borders from outside, operating from Iran and Iraq particularly. The Turkish Army pursues and fights these groups.

The separatist guerrilla movement operated intermittently in the 1960's and 1970's and has emerged again, most recently beginning in 1984. Most raids are reported to have been staged by members of a Marxist group, the Kurdistan Workers' Party (PKK), which was founded in 1974 and banned in Turkey in 1980. Many of its members presently are in prison. Over the years there have been reports of Kurdish separatists having banded together with Armenian and other terrorists based in the Middle East to attack Turkish citizens at home and abroad.

Turkish newspapers often carry reports of "separatists" and "bandits" killed in skirmishes; others are captured and sentenced to long terms in prison or to death. Turkish security forces have been involved in frequent clashes with Kurdish insurgents in southeastern Turkey in the past four years. From 1984 to 1986 at least 300 guerrillas were reported killed.[29] In early 1987, the conflict heated up considerably, with several cross-border attacks killing close to 100 people, including civilians, on both sides.

Before the latest resurgence in separatist activity, large numbers of Kurds were tried *en masse* for terrorist activities and attempts to establish a separate Kurdish state. While many were sentenced to death, most received life sentences or sentences of 10 to 20 years. Most of the death sentences were commuted subsequently to life imprisonment.

Amnesty International has adopted several Kurdish prisoners, most of whom have received long prison sentences and have reportedly been subjected to torture. Amnesty believes they have been imprisoned because of nonviolent activities on behalf of Kurdish separatism. One, Mehdi Zana, formerly mayor of Diyarbakir, was detained after the September 1980 takeover. In October 1983, he was convicted of being an active member of the outlawed Socialist Party of Turkey-Kurdistan (TKSP) and sentenced to a 24-year, one-month term in prison. In May 1984, he received a further sentence of seven years and eight months in prison for shouting slogans during his 1983 sentencing.

In June 1986, 11 employees of the National Statistics Institute were tried and acquitted on charges of "separatism." They had included Kurdish among the languages offered under the question, "What languages do you speak?" in the 1980 and 1985 census forms.

Turkish officials argue that there are no barriers to Kurds aspiring to the highest positions in the land, and that many have achieved prominence. However, other than a protracted war between Turkish security forces and Kurdish separatists, most Turks interviewed by the Commission during a 1986 visit saw little hope of finding a long-term solution to the Kurdish problem. One law professor involved in drafting the 1982 Constitution summarized the dilemma:

If Jews, Armenians and Greeks get protection, why shouldn't one-fifth of the population? . . . But if you start giving in, they'd ask for more and more and would break away from Turkey. Where does cultural autonomy lead to?

Some members of the Motherland Party envisioned a dual solution: economic investment in southeastern Turkey, which is the poorest part of the country, combined with a "melting pot" approach to assimilation. Others outside the Government, including members of the human rights community and of the press, also favor economic and social reforms — rather than allowing Kurds to realize separate cultural aspirations — as a solution.

The Kurdish situation, which harks back to the earliest days of the Turkish Republic, is unlikely to simply fade away. While it may defy simple solutions, it seems apparent to the Commission that, eventually, the issue of cultural and ethnic identity will have to be confronted.

FREEDOM OF RELIGION

In its previous report, the Commission found that the non-Muslim minorities in Turkey felt that the military takeover in 1980 had made them more secure than previously. To the extent they had concerns, these revolved around administrative matters which predated 1980, which they felt would be solved in due time.[30] Indeed, that has generally turned out to be the case.

The laws and regulations governing the status of non-Muslims in the Republic of Turkey are based in large measure on the provisions of the treaties surrounding the peace settlement at the end of World War I, because the victorious Western Powers had long seen themselves as the protectors of non-Muslim rights in the Ottoman Empire. In negotiating the terms under which the Turks were allowed to establish an independent state in part of the defeated empire, the 1923 Treaty of Lausanne entailed specific guarantees to non-Muslims.

The 9 articles which make up the treaty's section on minorities guarantee equality before the law, the free exercise of any belief ("the observance of which shall not be incompatible with public order and good morals"), freedom of movement, all civil and political rights granted to Muslims, the free use of their languages and the freedom to maintain separate schools in which teaching would be conducted in the minority language. Article 40 proclaims,

> They shall have an equal right to establish, manage and control at their own expense any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.

Article 41 states further,

> (T)hese minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious or charitable purposes.

Since the establishment of the Republic, with secularism as one of its basic tenets, various laws and constitutions have embodied these kinds of rights. Article 10 of the 1982 Turkish Constitution prohibits discrimination based on "language, race, color, gender, political opinion, philosophical belief, religion and sect, or any such consideration."

Today, Turkey is home to a small number of non-Muslims, who make up less than 1 percent of the total population. Among them are a variety of denominations, including Armenian Orthodox, Greek Orthodox, Greek Catholic, Roman Catholic, Protestant and Syrian Christians, as well as Jews. The size of the non-Muslim population has declined greatly over the past few decades, with emigration taking a particularly high toll on the Greek and Jewish communities.

Some nongovernmental organizations have expressed concern about interference over the years in the affairs of the non-Muslim minorities in Turkey. Most often these concerns have focused on charges of bureaucratic delays, harassment, and obstruction, which are said to suggest a governmental policy of discrimination against Christians. There are no reports of official statements reflecting such a policy, but inconsistencies in some official regulations give the impression of unequal treatment. In 1984, for example, the Government enacted a law allowing Muslim religious foundations to increase property rents, but the same was not permitted non-Muslim foundations.

Among the recurring sources of disputes between religious minority representatives and the Turkish Government have been the operation of schools and parish councils, and the registration and repair of church property. Greek Orthodox representatives continue to protest the 1972 closing of their theological seminary in accordance with a Turkish law limiting higher education to Government institutions. Similarly, the building which housed the Greek Patriarchate burnt down in 1941, and it was decades before a permit to rebuild was received from the civil authorities. It was finally granted in 1985, although permission from the local authorities was not forthcoming until April 1987, after several interventions by interested foreign representatives. Other complaints by Greek representatives have included excessive taxation of their community, official interference with the selection of prelates, and matters related to freedom of movement.

Friction between the Armenian community and Turkish officials has resulted from matters similar to those concerning the Greek Church. For example, in December 1986, Armenian Bishop Mesrob Moutafian was charged with violating the law on the preservation of historic buildings. He had reportedly repaired a leaky roof without permission, rather than put up with a lengthy review in order to obtain a permit, such as the Greek Patriarch experienced. The court dropped the case upon confirming that the repairs were minor.

Turkey's 22,000 Jews reportedly do not encounter officially sanctioned discrimination, and are the most integrated religious minority group in Turkey. They have regular contact with their co-religionists outside Turkey and maintain a variety of community institutions. The Turkish Jewish community was satisfied with the Government's firm response and thorough investigation into the September 6, 1986 terrorist attack on Istanbul's Neve Shalom Synagogue, which had resulted in 22 deaths.

The Greek Orthodox, the Armenian and the Jewish community structures, Patriarchates, Chief Rabbinate and other institutions were part of the minority regime under the Ottoman Empire and generally incorporated into the Treaty of Lausanne and continued under the Republic. In addition to those communities, there are other religious minorities in Turkey, and they are more often involved in issues which derive from traditional views which frown on proselytizing.

In December 1984, five Jehovah's Witnesses were sentenced under article 163 to six years and eight months in prison and 18 others to four years and two months for distributing propaganda

against the nation and the army during martial law. In July 1985, an appellate court overturned their convictions, and they were released. The original court where they were tried reaffirmed their convictions, and increased their sentences to five to eight years. A further appeal resulted in acquittal, with the court declaring unequivocally that all Turks are entitled to religious freedom.

The Commission has received occasional reports regarding official harassment of Turkish Protestants. In February 1986, the California-based Committee for Religious Freedom reported that Turkish authorities had opened a case against the Istanbul Bible Society for selling Bibles that had been published abroad. The case was subsequently dismissed, with the judge ruling that everyone is entitled to freedom of religion under the Constitution. In January 1987, the Colorado-based Friends of Turkey protested the arrest of 10 Turkish citizens for their involvement in Protestant Bible studies. The 10 were released, and the authorities did not press charges. In other cases brought before the courts, the pattern has also been that religious freedom has been upheld.

While members of the established, traditional minority communities in Turkey are reluctant to express open criticism of public policy and its implementation, some have voiced concern over the influence of Islam on state policies. They, along with supporters of Ataturk's secular legacy, are disquieted by what they perceive as the "Islamicization" of legislation. They fear that there may be increasing sympathy of late for the Islamic component of Turkish history and culture.

Generally, Turkish Governments from the beginning of the Republic have feared the twin demons of communism and clericalism, believing that certain segments of the population have never given up hope of establishing a theocracy and undoing the secularizing reforms of Ataturk. This fear is reinforced by the experience of the 1970's, when it was extremists on the radical left, along with ultranationalists and, to a lesser extent, religious conservatives on the right, who conducted the armed terror which preceded the military takeover.

Despite greater discussion of Turkey's place in the Middle East and relations with her Muslim neighbors, the Government has generally acted to safeguard the secular nature of the state. Mystic and other religious orders were prohibited shortly after the establishment of the Turkish Republic. However, some have continued in secret or have been revived in recent years. In the summer of 1986, the leader of such an order in eastern Turkey, one Fethullah Hoca, was charged with trying to restore theocracy and destroy the secular Republic. Since then, the security service has been trying to uncover some 10 to 12 other orders accused of being opposed to Kemalism. One Turkish newspaper reported in December 1986, that Turkish security forces were searching out some 30,000 members of orders such as the Akincilar, the Suleymanists, the Divine Light, and the Nakshibendi.[31] Many of their followers have been arrested.

In January 1987, 44 military cadets were expelled for having ties to fundamentalist religious organizations which, President Evren has charged, were attempting to infiltrate the Turkish military.[32] Since the army has traditionally considered itself, and has been

considered the guardian of the secularist values of Ataturk, this discovery was seen as particularly disturbing.

Also in early 1987, several newspapers covered Government attempts to stem the growth of anti-secularism. *Cumhuriyet* reported that the police were launching an investigation of boarding houses where the Government alleges students are being inculcated with the belief that "the basic order of the state" is "linked with religious principles and faith." *Hurriyet* reported that officials intended to surveil Koran courses, and that the officials responsible for these courses would be appointed by the Department of Religious Affairs "when necessary." The report went on to say that:

> Sermons and mosques and shrines will be better controlled. As they are prepared by the Department of Religious Affairs, sermons will henceforth carry the message that the religious propaganda put forward by Iran has no relation to the true faith of Muslims.[33]

Beginning with Ataturk's reforms in the 1920's, Turkey legislated various secularizing reforms intended to create a Western-oriented, democratic state. These included adopting the Latin alphabet to replace the Arabic, outlawing the veil for women, and ordering the Western-style hat in place of the fez for men. Since then, traditional believers have used certain items of Western style clothing as a compromise means of conforming with both the Islamic religious strictures regarding modest dress and the law of the land. In the case of women, that has meant wearing a scarf at all times in public, and often a coat or raincoat over daily dress while in public. While beards are prohibited for public servants as being reminiscent of the Ottoman-Islamic past, they came in part to be associated with the radical left of the student community in the 1970's, as well as with the religious right. Both unshaven faces and traditional garb showed themselves much more blatantly in the 1970's than they had for many years prior, and became silent symbols of political affiliation.

In mid-January 1987, YOK, the Council on Higher Education, provoked protest by devout Muslims when it ruled that female students in universities, which are public institutions, will not be permitted to cover their heads with scarves and male students may not wear beards.[34] In response to these measures, several thousand men demonstrated in Istanbul. They called for a return to the Seriat, Islamic Law, which was abolished under Ataturk in 1926, but which has remained in force in such traditional societies as Saudi Arabia, and was reintroduced in Iran under Khomeini. Fifteen of the demonstrators were detained, and seven were charged with violating the law on rallies and demonstrations and with anti-secular propaganda. Other demonstrations took place in Ankara and Konya.

Turkey today is still confronting complex issues concerning the relationship between religion and the state. The task of creating a secular state to succeed a multi-ethnic empire, in which religious affiliation was the basis of legal identity, was complicated and difficult. Having created a new, national identity as the basis of the state, the Republic of Turkey is still searching for ways to successfully combine its secular principles with the greatest possible freedom of religion.

CONCLUSION

Turkey's human rights progress in recent years has been substantial, and has been recognized by a number of organizations, including the Council of Europe and the European Parliament. The continuing efforts of the Government to improve the human rights situation in Turkey have resulted in impressive gains.

At the same time, the Commission remains concerned about serious problems in certain areas. The Commission condemns torture under any circumstances as incompatible with the respect for human dignity, which all Helsinki signatories are committed to realize. Measures have been taken by the Turkish Government, including recent international undertakings, with a view toward eradicating torture entirely from the Turkish scene. The Government's commitment to this objective will be tested in the future as those undertakings are implemented.

With respect to the status of the Kurdish minority, it seems to the Commission that Turkey will have to find a way to accommodate the aspirations of those Kurds who wish to live peacefully as citizens of the Republic of Turkey while maintaining their traditional culture. Recent political activities suggest that the process may already be underway.

While there remain topics which cannot be fully treated in word or in print without considering the potential legal consequences, the degree of freedom allowed the press compares favorably with even a few years ago. The very fact that issues which were virtually untouchable before or during martial law are now tolerated is evidence of the burgeoning scope of freedom of expression. By broadening the political discourse in this fashion, the Turkish press helps pave the way for more resilient democratic institutions.

With respect to religious minorities, it is noteworthy that, gradually, administrative matters of long standing, some of which predated the 1980 takeover, have been addressed in recent years. This is a welcome change, and the Commission hopes that this encouraging progress will continue.

No society has a perfect record on human rights. Yet countries such as Turkey, in which citizens are able to redress human rights grievances in the court system, are far closer to the Helsinki ideal than many signatory nations. Increasingly, the clear decisions of the judicial system are protecting personal liberties such as freedom of expression, assembly, and association. If the Turkish Government is able to implement its stated policies at all levels and throughout the country, resorting to the judiciary may become less frequent and less necessary.

Turkish law is now evolving to reflect, and to institutionalize completely, all the freedoms Turks value and have won for them-

selves since the establishment of the Republic. The Commission believes that process is well under way.

NOTES

1. Commission on Security and Cooperation in Europe, Congress of the United States, *Staff Report on the Human Rights Situation in Turkey,* Washington, D.C., October 1982, p. 2. Hereafter cited as *1982 Staff Report.*
2. *Ibid.*, p. 7.
3. *Ibid.*, p. 3.
4. *Ibid.*, p. 2.
5. *Ibid.*, p. 3.
6. *Ibid.*, p. 7.
7. *Ibid.*, p. 3.
8. In 1984, the Assembly determined that Turkey was on the road to democracy and agreed to readmit Turkish delegates. However, it continued to call on Turkey to respect the rights of minorities, cease persecution of political refugees and their families, revoke martial law and allow full freedom for all political parties.
9. They had accused Turkey of violating: article 3, prohibiting torture and inhuman or degrading punishment; article 5, on the liberty and security of the person; article 6, on the right to a fair trial by an independent and impartial tribunal; article 9, on freedom of thought, conscience and religion; article 10, on freedom of expression; and article 11, on freedom of assembly and association.
10. Estimates of the Kurdish population in Turkey vary, and there are no reliable official estimates. Press reports range from 8 to 9 million.
11. *1982 Staff Report*, p. 15.
12. The National Security Council was formed at the time of the coup. It was composed of the chiefs of staff of the four military services, plus the Chairman of the Turkish General Staff (General Evren). It was later transformed into the Presidential Council and retains the same membership.
13. Report broadcast on Ankara Domestic Service, September 7, 1987, translated in Foreign Broadcast Information Service, *Daily Report: Western Europe*, September 9, 1987, p. 19.
14. MISK stands for the Confederation of Nationalist Workers' Unions and DISK for the Confederation of Revolutionary Workers' Unions. For a fuller discussion of the two trade unions see section on Freedom of Association.
15. *1982 Staff Report*, p. 6.
16. Helsinki Watch, *Freedom and Fear: Human Rights in Turkey* New York, March 1986, pp. 79-81.
17. "The Shadow Over Turkey" in *The Economist*, November 1-7, 1986, p. 49.
18. Helsinki Watch, *State of Flux: Human Rights in Turkey*, December 1987, p. 73f.
19. *1982 Staff Report*, p. 8.
20. *Keesings Contemporary Archives*, vol. 30 (August 1984), p. 33038.
21. *Le Monde*, December 13, 1986, pp. 11, 18 in Foreign Broadcast Information Service, *Daily Report: Western Europe*, December 24, 1986.
22. Helsinki Watch, *Freedom and Fear, op. cit.*, p. 95.

23. *Hurriyet*, February 19, 1988. The headline of the article reads "Kurdish allowed, beards prohibited." This is reference to the fact that most of the major prisoner demands were agreed to, but the authorities refused to allow the wearing of long hair or beards.
24. *Index on Censorship*, vol. 15, No. 10 (November/December 1986), p. 49.
25. In January 1987, Turkey granted its citizens the right to petition the European Commission of Human Rights. *The Economist* reported, "Turkey has made it clear that though it will allow its citizens to appeal to the Commission, it will not accept the authority of the European Court of Human Rights. . . . (O)fficials suggest that if things work smoothly, Turkey will revise its attitude to the court in a few years' time." The right to petition is not allowed to members of the military, and members of trade unions and professional associations cannot petition against the constitutional ban on their political activity. "Well Done, Pity About the Strings" in *The Economist*, February 7, 1987, p. 49.
26. Mehmet Ali Dikerdem, "A Turkish Tug-of-War" in *Index on Censorship*, vol. 16, No. 6 (June 1987), p. 18.
27. *1982 Staff Report*, p. 4.
28. Henry Kamm, "Democracy in Turkey: Some Progress Is Made, but Barriers Remain," *The New York Times*, September 12, 1985.
29. "The Shadow Over Turkey," *op. cit.*
30. *1982 Staff Report*, pp. 10-11.
31. Soner Guler, "Reactionaries are Running from the Police," *Milliyet*, December 23, 1986, p. 3, translated in Foreign Broadcast Information Service, *Daily Report: Western Europe*, December 30, 1986. These mystic orders were an important force in Turkish Islam under the Ottoman Empire. Swearing fealty to their sheikh, and devoted to a mythical or real founder or patron saint, some have rituals which include mesmerizing dances which induce a trans-like state, self-mutilation or piercing the flesh with needles and knives without signs of bleeding, and similar practices. As patrons of the old order, their members were outspoken opponents of the new, secular measures of Ataturk.
32. Sam Cohen, "Turkey's Islam Debate Comes to a Head—Literally" in *The Christian Science Monitor*, January 12, 1987, p. 14.
33. "A State Security Court Trial for Suleymanists," *Cumhuriyet*, February 26, 1987, p. 8, translated in Foreign Broadcast Information Service, *Daily Report: Western Europe*, March 4, 1987; Yavuz Gokmen and Muhavrem Sarikaya in *Hurriyet*, January 18, 1987, p. 17, translated in Foreign Broadcast Information Service, *Daily Report: Western Europe*, January 27, 1987.
34. Sam Cohen, *op. cit.*

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